

REMARKS/ARGUMENTS

The undersigned attorney thanks the Examiner for the courtesy of the interview on August 4, 2009. The discussion centered about amendment of Claim 1 and why such amendments would prevent Zou et al. from anticipating such amended Claim 1 (or any of the dependent claims). The undersigned attorney pointed out that Zou et al. required the inclusion of propellant, and that the restricting and defining the disinfectant composition in applicants' independent Claim 1 with the term "consisting of" would prevent Zou et al. from being an anticipatory reference. The undersigned attorney said that, if such amendment was made, "water, as solvent" would be recited in the independent claim, and the auxiliaries would be recited as an optional component. The undersigned attorney said that Zou et al. includes water in its dispensible composition but that there is no anticipation because Zou et al. required the presence of a propellant which was excluded by applicants' amended Claim 1; Zou et al. does not disclose the applicants' process as presently claimed. The undersigned attorney also asserted that the Zou et al. used the term "antimicrobial" only for bacteria and did not use such term to include "antiviral" and "antifungal".

Claims 1 to 4, 6 to 15, 19, 21, 23, 25, 27 and 29 are pending. Claims 5, 16 to 18, 20, 22, 24, 26, 28 and 30 to 33 have been cancelled. Claims 1, 3, 4, 6, 12 to 15 and 19 have been amended. Process Claim 1 has been amended to recite "consisting of" instead of "comprising". Claim 1 has also been amended to include water as solvent and optionally certain types of auxiliaries.

The Office Action stated that applicants' request for reconsideration of the finality of the rejection of the last Office Action is persuasive and, therefore, the finality of that action is withdrawn.

The Office Action stated that Claims 1 to 33 are included in the prosecution.

The Office Action stated that the following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejection under this section made in this Office Action:

A person shall be entitled to a patent unless -

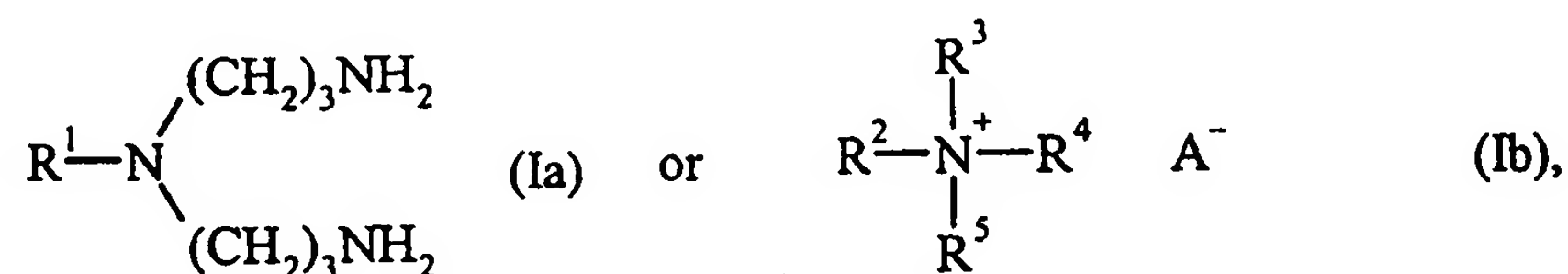
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 to 33 have been rejected under 35 U.S.C. 102(b) as being anticipated by Zhou et al. (WO 00/03692). Applicants traverse this rejection.

The Office Action stated that the claimed invention is a process of utilizing a disinfectant composition comprising:

1. A process of utilizing a disinfectant composition comprising:

a) an amine and/or quaternary ammonium salt of the general formula:



where R^1 is C_{6-18} -alkyl,

R^2 is benzyl or C_{6-18} -alkyl,

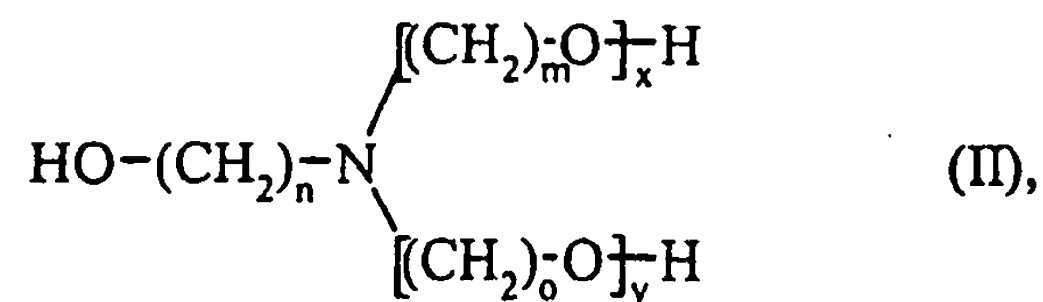
R^3 is C_{1-18} -alkyl or $-\text{[(CH}_2)_2\text{-O]}_n\text{R}^6$ where $n = 1-20$,

R^4 and R^5 independently of one another are C_{1-4} -alkyl,

R^6 is hydrogen or unsubstituted or substituted phenyl,

and A^- is a monovalent anion or one equivalent of a polyvalent anion of an inorganic or organic acid; and

b) at least one alkanolamine of the general formula:



where n and, if present, m and o independently of one another have the value of 2 or 3, and x and y independently of one another have the value 0 or 1, or a corresponding salt; in the mass ratio 1:11 of 20: 1 to 1:20, as a virucidal agent.

Applicants assert that Zou et al. does not anticipate applicants' amended independent process Claim 1 (or any dependent claim). Process Claim 1 now defines the scope of the composition used in the process by the limiting term "consists of" and thereby excludes components not listed. Zou et al. requires the inclusion of a propellant in its composition, therefore Zou et al. does not anticipate amended independent process Claim 1 that does not recite a propellant component. Process Claim 1 has also been amended to recite the inclusion of water and the optional inclusion of certain auxiliaries.

The Office Action stated: that Zhou et al. teaches a method of decontaminating a surface by using a composition comprising a quaternary ammonium compound and water (Abstract); that quaternary ammonium compound including C₁₂₋₁₈ alkyl dimethylbenzyl ammonium chloride, C₈/C₁₀ alkyl dimethyl ammonium chloride, di-C₈ alkyl dimethyl ammonium chloride and di-C₁₀

alkyl dimethyl ammonium chloride, di-C₈ alkyl dimethyl ammonium chloride and di-C₁₀ alkyl dimethyl ammonium chloride (Page 8, line 42, to Page 9, line 15); that typical amounts of the quaternary ammonium compound range from about 0.01%-5% (Page 9, lines 25 to 30); that alkanolamines (including triethanolamine) are disclosed as components that comprise 0.01% to 5% of the composition (Page 16, lines 23 to 36); that the method for decontaminating a surface containing microorganisms by contacting the surface with the dispensable composition is also disclosed by Zhou et al. (Page 2, line 45, to Page 3, line 1); that the surfaces that may be treated include bathroom surfaces, implements, etc., and include surfaces that harbor microorganisms, including viruses (Page 3, line 40, to Page 3, line 21); that the composition can also be used as a cleaner and soil remover (page 4, lines 29 to 32); stated "Additional adjuncts in small amounts such as buffers, fragrances, dyes and the like can be included to provide desirable attributes of such adjuncts" (Page 5, lines 4 and 5); that Table III illustrates the virucidal efficacy of the composition when applied to a test surface and that the complete inactivation of poliovirus type 1 is demonstrated (page 20, Table III, and Page 18, lines 38 to 40). As shown here in, Zhou et al does not anticipated amended process Claim1 or any dependent claim. Zou et al. does not anticipate applicants' claimed invention as a whole.

The Office Action stated that regarding instant Claim 1, the limitation of the process of utilizing a disinfectant composition is anticipated by the method decontaminating a surface by applying the composition that is an effective virucide, as disclosed by Zhou et al. (Page 2, line 45, to Page 3, line 1, and Table III). Zou et al. does not anticipate applicants' claimed invention (amended independent process Claim 1) as a whole.

The Office Action stated that the limitation of a quaternary ammonium salt of the general formula disclosed in Claim 1 is anticipated by the C₁₂₋₁₆ alkyl dimethylbenzyl ammonium chloride C₈/C₁₀ alkyl dimethyl ammonium chloride, di-C₈ alkyl dimethyl ammonium chloride and di-C₁₀ alkyl dimethyl ammonium chloride taught by Zhou et al. (Page 9, lines 25 to 30). Zou et al. does

not anticipate applicants' claimed invention (amended independent process Claim 1) as a whole.

The Office Action stated that the limitation of "at least one alkanolime" of the general formula disclosed in the Claim 1 is anticipated by the trethanolamine disclosed by Zhou et al. (Page 16, lines 23 to 36). Zou et al. does not anticipate applicants' claimed invention (amended independent process Claim 1) as a whole.

The Office Action stated that the limitation of the mass ratio of 1:11 (or the mass ratio of the quaternary ammonium compound: the alkanolamine) of 20:1 to 1:20 is anticipated by the ratio of quaternary ammonium compound: alkanolamine that ranges from (0.01% to 5%), as taught by Zhou et al. (Page 9, lines 25 to 30, and Page 16, lines 23 to 35). Zou et al. does not anticipate applicants' claimed invention (amended independent process Claim 1) as a whole.

The Office Action stated that the limitation of the process of utilizing a disinfectant composition as virucidal agent is anticipated by the application of the composition to a surface and the complete inactivation of poliovirus type 1, as disclosed by Zhou et al. (Page 20, Table III, and Page 19, lines 38 to 40). Zou et al. does not anticipate applicants' claimed invention (amended independent process Claim 1) as a whole.

The Office Action stated that, regarding Claim 2, the limitation of the quaternary ammonium salt is anticipated by the C₈/C₁₀ alkyl dimethyl ammonium chloride, di-C₈ alkyl dimethyl ammonium chloride and di-C₁₀ alkyl dimethyl ammonium chloride as taught by Zhou et al. (Page 9, lines 25 to 30). The independent claim is not anticipated by Zou et al. so the dependent claim cannot be anticipated by Zou et al.

The Office Action stated that, regarding instant Claims 3 and 12, the limitation of the alkanolamine is anticipated by the trethanolamine taught by Zhou et al. (Page 16, lines 23 to 36). The independent claim is not anticipated by Zou et al. so the dependent claims cannot be anticipated.

The Office Action stated that, regarding instant Claims 4 and 13 to 15, the limitation of the mass ratio of 1:11 that is between 1:5 and 5:1 is anticipated by the ratio of quaternary ammonium compound: alkanolamine that ranges from (0.01% to 5%), as taught by Zhou et al. (Page 9, lines 25 to 30, and Page 16, lines 23 to 36). The independent claim is not anticipated by Zou et al. so the dependent claims cannot be anticipated.

The Office Action stated that, regarding instant Claims 5 and 16 to 18, the limitation of water as a solvent is anticipated by the water disclosed by Zhou et al. (Abstract). Note that dependent Claims 5 and 16 to 18 have been cancelled and the subject matter there inserted into independent Claim 1.

The Office Action stated that, regarding instant Claims 6, 19 and 20, the limitation of the auxiliaries is anticipated by the additional adjuncts in small amounts such as buffers, fragrances, and dyes that can be included, as taught by Zhou et al. (Page 5, lines 4 and 5). The independent claim is not anticipated by Zou et al. so the dependent claims cannot be anticipated.

The Office Action stated, regarding Claims 7 to 10 and 21 to 28, the limitation of surface disinfection, instrument disinfection, and laundry disinfection is anticipated by the treatment of bathroom surfaces, implements, and the use of the composition as a cleaner and soil remover, as taught by Zhou et al. (Page 4, lines 29 to 32). The independent claim is not anticipated by Zou et al. so the dependent claims cannot be anticipated.

The Office Action stated, regarding Claims 11 and 29 to 33, the limitation of the process wherein the virucidal agent of Claim 1 is utilized against parvoviruses, picornaviruses or polioviruses is anticipated by the application of the composition to a surface and the complete inactivation of poliovirus type 1, as disclosed by Zhou et al. (Page 20, Table III, and Page 19, lines 38 to 40). The independent claim is not anticipated by Zou et al. so the dependent claims cannot be anticipated.

Applicants have shown above that Zou et al. does not anticipate amended independent process Claim 1 (or any of the dependent claims). Also, Zou et al. directs one ordinarily skilled in the art away from amended Claim 1 and makes amended Claim 1 unobvious.

Withdrawal of this rejection is requested.

The Office Action of 3/31/09 has been vacated (the undersigned attorney had called the Examiner noting that applicants had filed a notice of appeal and an appeal brief, so such Office Action did not follow the rules) and replaced with this Office Action. The Examiner has reopened prosecution in this application (after the appeal brief had been filed). Applicants (appellants) have exercised their option to file this reply (amendment) under 37 CFR 1.111 to this non-final Office Action.

Reconsideration, reexamination and allowance of the claims are requested

Respectfully submitted,

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Date

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<p align="center">CERTIFICATE OF MAILING</p> <p>I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on <u>October 19, 2009.</u></p> <p align="center"><u>Virgil H. Marsh</u> FISHER, CHRISTEN & SABOL 1156 15th Street, N.W. Suite 603 Washington, D.C. 20005</p>
